



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/806,082	08/20/2001	Akira Ebihara	KANEBO CASE5	4908

7590 07/13/2004

Flynn Thiel Boutell & Tanis  
2026 Rambling Road  
Kalamazoo, MI 49008-1699

EXAMINER

JUSKA, CHERYL ANN

ART UNIT

PAPER NUMBER

1771

DATE MAILED: 07/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/806,082

Applicant(s)

EBIHARA ET AL.

Examiner

Cheryl Juska

Art Unit

1771

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 26 April 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1 and 2 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 2 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |                                                                                                                        |                                                                                         |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                                                       | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)                                    | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____                                                |

## **DETAILED ACTION**

### ***Response to Amendment***

1. Applicant's amendment filed April 26, 2004, has been entered. Claim 2 has been amended as requested. The pending claims are claims 1 and 2.
2. The examiner notes the error in citing US 6,074,284 issued to Tani as an available reference. Thus, the rejection set forth in section 5 of the last Office Action is hereby withdrawn.

### ***Claim Rejections - 35 USC § 103***

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
4. Claim 2 stands rejected under 35 USC 103(a) as being unpatentable over US 5,899,794 issued to Shige et al. in view of US 5,877,098 issued to Tanaka et al. for the reasons of record.

Claim 2 has been amended to limit the fabric to a satin fabric. Although Shige does not explicitly teach the woven fabric is a satin fabric, satin fabrics are well known in the art of textiles. For example, satin weaves are well known as smooth woven fabrics, due the yarn floats which create fewer interlacing "knuckles." Applicant is hereby given Official Notice of this fact. Thus, it would have been obvious to one skilled in the art to select a satin weave fabric in order to provide a smooth, less abrasive fabric. Therefore, claim 2 is rejected as being obvious over the prior art.

5. Claim 1 is rejected under 35 USC 103(a) as being unpatentable over US 5,899,794 issued to Shige et al. in view of US 5,877,098 issued to Tanaka et al.

Art Unit: 1771

As noted above, the tertiary reference of Tani, which taught pile height, has been withdrawn. It is argued that claim 1 is obvious over Shige and Tanaka without a tertiary reference. Specifically, the references fail to teach the claimed pile height. However, it would have been obvious to one skilled in the art to select the claimed pile height. Since the cited references fail to give guidance on this feature, one skilled in the art would have merely have to determine an optimum or workable range. It has been held that where the general conditions of a claim are disclosed in the prior art, discovering said optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233. Therefore, claim 1 is rejected.

### ***Response to Arguments***

6. Applicant's arguments filed with the amendment have been fully considered but they are not persuasive.

7. Applicant traverses on the grounds that the cited references do not disclose the claimed pile height, pile density, cover factor, or satin weave (Amendment, paragraph spanning page 5-6). The new limitation of the satin weave has been addressed above. Additionally, it is reiterated that the pile height, pile density, and cover factor are features that one skilled in the art would have been readily able to determine. Specifically, it has been held that where the general conditions of a claim are disclosed in the prior art, discovering said optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

8. With respect to the newly submitted Declaration under 1.132 (April 26, 2004), said declaration is still in sufficient to overcome the prior art rejections. In particular, the additions made to the declaration since the last Office Action still do not establish that the results are

Art Unit: 1771

unexpected. Note comparative examples 4 and 5 in Table 2 and comparative examples 1-3 in Table 3 have processing speed/ $Ra^{1.5}$  values that correlate to good overall assessments (i.e., greater than 2). Thus, it is unclear that the claimed ranges are critical to obtaining the superior results (i.e., good assessment). Additionally, it still has not been shown that the results obtained are actually unexpected. Therefore, said declaration is insufficient to overcome the prior art rejections.

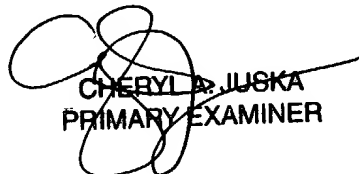
### ***Conclusion***

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cheryl Juska whose telephone number is 571-272-1477. The examiner can normally be reached on Monday-Friday 10am-6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached at 571-272-1478. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

10. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

cj  
July 12, 2004

  
CHERYL A. JUSKA  
PRIMARY EXAMINER